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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/655,833

09/05/2003

Sonya Ann Curry

CM2694

7078

27752

7590

08/29/2006

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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CINCINNATI, OH 45224

EXAMINER

MOHANDESI, JILA M

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 08/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/655,833

Applicant(s)

CURRY ET AL.

Examiner

Jila M. Mohandesi

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Procter & Gamble Company (GB 2 369 094) herein after Procter in view of Dull et al. (5,645,169). Procter discloses a packaged product comprising: a plurality of flexible water soluble liquid-detergent-filled pouches; an outer container (box or tub with reclosable lid) for containing the liquid-detergent-filled pouches; wherein the outer container contains a plurality of flexible liquid-detergent-filled pouches whereby at least two or more of the flexible liquid-detergent-filled pouches are in mutual contact (see page 6, lines 16-26), and wherein the outer container further comprises means (protective bag enclosing the pouches) for avoiding or minimizing rupture of the flexible liquid-filled pouches when the outer container is subject to shock.

With respect to claim 13, note the bag, see page 16, lines 1-6.

The product-by-process limitation in claim 14 results in no structure that is different from Procter.

With respect to claims 15-16 and the cushioning material, note the protective plastic or paper layers, see page 15, lines 25-28.

With respect to claim 11, Procter discloses that the outer container can contain a plurality of pouches in a random orientation whereby at least two or more of the flexible pouches are in mutual contact, see page 6, lines 16-20. Procter does not appear to teach the tub being injection molded plastic tub and the means for avoiding or minimizing rupture comprising a cushioning material selected from corrugated cardboard. Dull '169 discloses a packaged product comprising: a plurality of flexible water soluble liquid-filled pouches; an injection molded plastic outer container for containing the liquid-filled pouches; wherein the outer container contains a plurality of flexible liquid-filled pouches whereby at least two or more of the flexible liquid-filled pouches are in mutual contact, and wherein the outer container further comprises means for avoiding or minimizing rupture (corrugated cardboard cushioning outer sleeve 30) of the flexible liquid-filled pouches when the outer container is subject to shock. See Figures 1-15 embodiments. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the tub of Procter injection molded plastic tub as taught by Dull '169 for better protecting the pouches from environmental damage.

With respect to claim 1 and 17, note the corrugated cushioning outer sleeve (30) in Figure 3 embodiment of Dull '169, which will due to its thickness minimize rupture of the flexible liquid-filled pouches when the outer container is subject to shock. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the means for avoiding or minimizing rupture of Procter from corrugated cardboard cushioning material as taught by Dull '169 to provide better protection for the pouches.

Response to Arguments

4. Applicant's arguments filed June 20, 2006 have been fully considered but they are not persuasive. Procter patent discloses plurality of different sheets of pouches with different size and shape and number of pouches, which can be, provide in the outer container. These sheets of pouches can be the same size of the surface area of the outer container or they can be larger than the surface area, so that the sheet can be folded once or twice or more to fit in the outer container in a random orientation. Contrary to applicant's argument Procter patent clearly teaches the outer container can contain a plurality of liquid-filled pouches in a random orientation.

In response to applicant's argument that the examiner has failed to establish a prima case of obviousness, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references

would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the tub of Procter injection molded plastic tub as taught by Dull '169 for better protecting the pouches from environmental damage.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

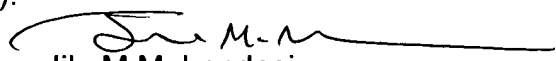
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jila M. Mohandesi whose telephone number is (571) 272-4558. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jila M Mohandesi
Primary Examiner
Art Unit 3728

JMM
August 22, 2006